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# Citizens will suffer if the FOI law is weakened

By BILL HORNBY

THE REAGAN administration and its congressional allies are mounting a serious threat to the free flow of information about the workings of the federal government. And several key Western senators will be deeply involved as the issue moves to the front burner in the next few months.

Paradoxically, for an administration philosophically committed to getting the government off the backs of individual citizens, the administration policy is marked by extreme attention to the complaints and fears of federal bureaucrats and equally extreme inattention to the effects that cutting off the information would have on the liberties of citizens.

The attempt to choke up on the flow of information centers on proposed amendments to the Freedom of Information Act. Under this act, citizens may request the release of federal information if it does not fall within certain categories of exemption. An agency must defend its refusal to release information in the courts. The FOI Act, since it was most recently reworked in 1974, has been attempting to correct the gross imbalance between the truly awesome ability of government employees to keep their activities secret and the fragmented and relatively weak capacity of citizens, including the press, to find out what is going on.

For an administration which came to office based on the promise of attempting to deregulate and decentralize government processes in the interest of individual liberty, it is ironic to see this blanket buying of bureaucratic arguments that too much information is going out to citizens.

The zealotry of some congressmen to choke off information extends to an attempt to bypass legitimate procedures to amend the FOI Act. Sen. Robert Dole, R-Kan., has introduced floor amendments to the Department of Justice financial authorization bill. These amendments to S 951 would not require committee hearings or public testimony. They would exempt all CIA and FBI records from any FOI Act disclosure for a period of 10 years and greatly increase the difficulty of learning about those activities after the 10-year period of silence. The Internal Revenue Ser-

IN ADDITION to this effort, there are a number of other bills hostile to maximum information flow in various stages of congressional processing.

Suggested amendments to the FOI Act and the Reagan government's attitude toward it may be summarized as centering in three principal areas:

1. The Department of Justice has issued new guidelines to federal agencies in effect reversing the old rules in which an agency was supposed to cooperate with requests for information release unless the bureaucrat could prove that release would bring demonstrable harm to the government.

Under the old rules the government service had to make a case to the Justice Department that the secrecy proposed was really necessary before the department would undertake the legal defense of the bureaucrat's actions. Now the onus will be put on the public, and the Justice Department says it will leap to the defense of government attempts at secrecy unless the citizen or group asking for the information can make an overwhelming case for openness. This difference in emphasis will obviously encourage rather than discourage the withholding of information by federal agencies.

2. Business groups with the National Association of Manufacturers riding shotgun are claiming that the government is releasing too many "trade secrets" in response to FOI Act requests and that these actions are doing great harm to fair business competition.

3. The FBI and CIA are pushing for total exemption of their agencies from FOI Act procedures, arguing that information damaging to the "national interest" is being released, and that the country's intelligence gathering processes are being harmed because informants will not tell what they know for fear of being revealed.

These criticisms of the present FOI system have some characteristics in common:

- They are marked by a significant lack of specific detail about the alleged harms which the FOI Act is doing.

- They ignore the many protections already existing in the act preventing the release of information really damaging to the national interest or the country's security.

Admiral Stansfield Turner, then head of the CIA, told the American Society of Newspaper Editors in 1980 that he didn't know of a single FOI case in which the courts had forced the CIA to release information it felt was damaging to national security. And in the trade secrets area, Rep. Glenn English, D-Okla., head of the House committee hearing the case for changes in the act, says he has yet to hear from the business complainants "one good solid case of abuse being caused by the FOI Act. There's always some other factor."

THE EXISTING LAW exempts from release to the public any materials "specifically authorized under criteria established by an executive order to be kept secret in the interest of national defense or foreign policy and are, in fact, properly classified pursuant to such executive order." This means that the government can still keep secret whatever it wants to in the national security area, and as Turner admitted, the courts have upheld the government's definition and desires in this area in every proposed information release the government has challenged.

But despite the fact that the law is working well, both in the sense of keeping secret what should be kept secret and of releasing information that is not entitled to secrecy status, the fears of government operators are open-ended. They argue that properly secret information might be released under the act, or that the misperception of the act's openness by allies or other informants may cause them to withhold information. Specific cases are never cited.

Hence the reaction of congressmen like Senator Dole who would issue a blanket exemption for all materials relating to the FBI or CIA for a 10-year period, ignoring the more selective protections already embodied in the act.

The continuing revelations of significant if scattered examples of misconduct in the CIA don't seem to slow down the legislators' preference for total secrecy. Financial manipulations which led to the recent resignation of a highly placed CIA official, Max Hugel, or the admission by the agency that some of its employees had been fired for moonlighting in the training of Libyan terrorists, are only the most recent fragments indicating that even the